

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THERESA GORSKI,

Plaintiff,

v.

Case No. 06-11631
Hon. Sean F. Cox

MYRIAD GENETICS,

Defendant.

ORDER

This matter is before the Court on Defendant's Motion in limine to exclude photographs. Both parties have fully briefed the issues. For the following reasons, the Court **GRANTS** Defendant's Motion in limine to exclude photographs.

I. BACKGROUND

This action arises from alleged employment discrimination based on Plaintiff's gender and age. The underlying facts are sufficiently set forth in the Court's Order denying Defendant's motion for summary judgment. [Doc. 39].

On June 26, 2007, Defendant filed a Motion in limine to exclude photographs of several of Defendant's younger employees dressed up and drinking.

II. ANALYSIS

Plaintiff seeks to introduce numerous photographs of sales representatives employed by Defendant at a company party. Several of the individuals shown are wearing wigs and appear to

be drinking alcohol.

Defendant argues the photographs are irrelevant. Under FRE 401, relevant evidence is “evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” Pursuant to FRE 402, all relevant evidence is admissible.

The photographs offered by Plaintiff are not relevant. The fact that several employees dressed in costumes and consumed alcohol at company functions does not make it more or less probable that Plaintiff was discriminated against on the basis of her age. While Plaintiff is free to testify to the youth culture she witnessed at Defendant’s company, and to her perception that she did not “fit in,” the photographic evidence Plaintiff offers is irrelevant.

IV. CONCLUSION

For the foregoing reasons, the Court **GRANTS** Defendant’s Motion in limine to exclude photographs.

IT IS SO ORDERED.

S/Sean F. Cox
Sean F. Cox
United States District Judge

Dated: July 3, 2007

I hereby certify that a copy of the foregoing document was served upon counsel of record on July 3, 2007, by electronic and/or ordinary mail.

S/Jennifer Hernandez
Case Manager